

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 06-3456 (DSD/RLE)

Freddie Lee Livingston,

Petitioner,

v.

ORDER

Joan Fabian, Minnesota Department
of Corrections Commissioner,

Respondent.

This matter is before the court upon petitioner's objections to the report and recommendation of Chief Magistrate Judge Raymond L. Erickson dated August 25, 2006. In his report, the magistrate judge concluded that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 should be dismissed with prejudice.

The court reviews the report and recommendation of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)(C). The court finds that the report and recommendation of the magistrate judge is well reasoned and correctly disposes of petitioner's claims. Therefore, the court adopts the report and recommendation of the magistrate judge in its entirety.

Further, the court determines that petitioner has not made a "substantial showing of the denial of a constitutional right" as required by 28 U.S.C. § 2253(c)(2). Thus the court does not grant a certificate of appealability.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2254 [Doc. No. 1] is dismissed with prejudice.
2. Petitioner's motion for leave to proceed in forma pauperis [Doc. No. 3] is denied as moot.
3. For purposes of appeal, the court does not certify the issues addressed herein pursuant to 28 U.S.C. § 2253(c) (2).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 17, 2007

s/David S. Doty
David S. Doty, Judge
United States District Court